

JAN 09 2009

ROBERT H. SHERWELL, CLERK  
BY  DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION

DAWSON FARMS, LLC

CIVIL ACTION NO. 06-0737

VERSUS

JUDGE ROBERT G. JAMES

BASF CORP., ET AL.


MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

On December 12, 2008, the Court gave notice of its intent to *sua sponte* grant summary judgment in favor of Defendant BASF Corporation (“BASF”) on Plaintiff Dawson Farms, LLC’s (“Dawson”) claim for design defect under the Louisiana Products Liability Act (“LPLA”), LA. REV. STAT. § 9:2800.51, *et seq.* [Doc. No. 252]. On December 23, 2008, Dawson filed a memorandum opposing dismissal of this claim. [Doc. No. 255]. BASF, however, did not file a memorandum in response. For the following reasons, the Court declines to grant summary judgment in favor of BASF on this claim.

Previously, the Court queried whether the LPLA’s definition of damage eliminates a cause of action under the LPLA for economic damages when a redhibitory cause of action is available. *See* LA. REV. STAT. § 9:2800.53(5); *see also* *Hilton v. Atlas Roofing Corp.*, No. 05-4204, 2006 U.S. Dist. LEXIS 30284, at \*8–11 (E.D. La. May 17, 2006) (holding that a claimant could proceed in redhibition and the LPLA because she stated a claim for economic damages to property other than the product itself). Having considered Dawson’s arguments and the Court’s role sitting in diversity, the Court finds that redhibition is not the exclusive means of pursuing economic damages in this case. Dawson may present its design defect claim to the jury as an alternative cause of action.

MONROE, LOUISIANA, this 9 day of January, 2009.

A handwritten signature in black ink, appearing to read "Robert G. James", written over a horizontal line.

ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE